



DEPARTMENT OF TRANSPORTATION
MATERIALS TRANSPORTATION BUREAU
WASHINGTON, D.C. 20590

18994

49 CFR Parts 172, 173, 178

[Docket No. HM-139C; Notice No. 80-5]

**Conversion of Individual Exemptions
Into Regulations of General
Applicability**

AGENCY: Materials Transportation
Bureau, Research and Special Programs
Administration, DOT.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Materials Transportation
Bureau is considering amending the
regulations governing the transportation
of hazardous materials to incorporate
therein a number of changes based on
existing exemptions which have been
granted to individual applicants
allowing them to perform particular
functions in a manner that varies from
specified by the regulations.

tion of these exemptions as rules
of general applicability would provide
wider access to the benefits of
transportation innovations recognized
as effective and safe.

DATES: Comments on or before April 23,
1980.

ADDRESS COMMENTS TO: Dockets
Branch, Materials Transportation
Bureau, U.S. Department of
Transportation, Washington, D.C. 20590.
Comments should identify the docket
and be submitted in five copies. The
Dockets Branch is located in room 8426
of the Nassif Building, 400 Seventh
Street, S.W., Washington, D.C. Public
dockets may be reviewed between the
hours of 8:30 a.m. and 5 p.m. Monday
through Friday.

FOR FURTHER INFORMATION CONTACT:
Darrell L. Raines, Office of Hazardous
Materials Regulation, 400 Seventh
Street, S.W.; Washington, D.C. 20590,
202-472-2728.

SUPPLEMENTARY INFORMATION: Each of
the proposed amendments described in
the following table is founded upon
either: (1) actual shipping experience
gained under an exemption, or (2) the
data and analysis supplied in the
application for an exemption. In each
case the resulting level of safety being
afforded the public is considered at least
equal to the level of safety provided by
the current regulations.

Primary drafters of these proposals
are Darrell L. Raines, and John C. Allen,
Office of Hazardous Materials
Regulation, Exemptions and Regulation
Termination Branch.

These proposals would not
significantly affect the costs of
regulatory enforcement, nor would
additional costs be imposed on the
private sector, consumer, or Federal,
State or local governments, since these
proposals would merely authorize the
general use of shipping alternatives
previously available to only a few users
under exemptions. The safety record of
shipments under the identified
exemptions demonstrates that
significant environmental impacts would
not result from any of the proposals.
Adoption of an amendment derived
from an existing exemption would
obviate the need for that exemption and
effectively terminate it. Upon such
termination the holder of the exemption
and parties thereto would be

individually notified. Adoption of an
amendment derived from an application
for exemption should provide the relief
sought, in which event the exemption
request would be denied and the
applicant so notified. In the event the
Bureau decides not to adopt any of these
proposals each pertinent application
would be evaluated and acted upon in
accordance with the applicable
provisions of the exemption procedures
in 49 CFR Part 107, Subpart B.

Consequently, persons commenting on
the proposals may wish to address both
the proposed amendment and the
exemption application. Comments
pertaining to modes of transportation
other than those for which the
exemption application requested is
anticipated.

Each mode of transportation for which
a particular exemption is authorized or
requested is indicated in the "Nature of
Exemption or Application" portion of
the table below as follows: 1—Motor
vehicle, 2—Rail freight, 3—Cargo vessel,
4—Cargo-only aircraft, 5—Passenger-
carrying aircraft. The status of the
exemption action is indicated in the
column titled Identification Number
where prefix "E" means an exemption
has been issued. The suffix "No" mean
no applications for exemptions are
pending, but the Bureau is taking action
by this proposal; the suffix "X" means a
renewal application is pending; the
suffix "P" means one or more party
status applications are pending; and the
suffix "N" means a new application for
exemption is pending.

Proposed Amendments of Hazardous Materials Regulations
to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
§ 4790	Smith & Wesson/ General Ordnance Equipment Co.	§ 172.101	Authorizes shipment of tear gas devices (Chemical Mace) meeting DOT Specification 2P inside DOT 12B30 fiberboard box. (Modes 1, 2).	To add the following entry to the Hazardous Materials Table in § 172.101 in alphabetical sequence:

(1) N/A	(2) Hazardous materials descriptions and proper shipping names.	(3) Hazard class	(4A) ID number	(4) Label(s) required (if not excepted)	(5) Passenger		(6) Maximum net quantity in one package		(7) Water shipments		
					(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Tear gas device	Irritating material	NA1693	Irritant	None	§ 173.385	Forbidden	75 pounds	1	5	Stow away from living quarters.

§ 173.385

To add paragraph (a) (3) to read as follows:

(3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside tear gas devices meeting specification 2P (§ 178.33 of this subchapter). Each inside container must be placed into spiral wound tubes fitted with metal ends or a double-faced fiberboard box with suitable padding. Not more than 30 inside containers shall be placed in one outside box and gross weight shall not exceed 35 pounds.

Proposed Amendments of Hazardous Materials Regulations
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Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 6526	Dow Chemical Co.	§ 173.353 (a) (3) § 173.357 (b) (1)	Authorizes the shipment of certain Foison B liquids in DOT Specification 4BA or 4BW cylinders with recessed valve protection.	To revise § 173.353(a) (3) to read: (a) (3) Specification 3A225, 3AA225, 3B225, 3E1800, 4A225, 4B225, 4BA225, or 4BW225 (§§ 178.36, 178.37, 178.38, 178.42, 178.49, 178.50, 178.51, 178.61 of this subchapter). Metal cylinders. Valves and other closing devices must be protected to prevent damage in transit by equipping the cylinder with valve protection required by § 173.301(g) of this subchapter. Cylinders having a wall thickness of less than 0.08 inch must be packed in boxes or crates (See § 173.25). To amend § 173.357(b) (1) by changing the first two sentences as follows: (b) (1) Specification 3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, 4BW, or 4C (§§ 178.36, 178.37, 178.38, 178.40, 178.41, 178.42, 178.49, 178.50, 178.51, 178.61, 178.52 of this subchapter). Metal cylinders. Valves and other closing devices must be protected to prevent damage in transit by equipping the cylinders with valve protection required by § 173.301(g) of this subchapter. *** To amend the first sentence of §§ 173.119(a) (27), 173.125(a) (7), 173.222(a) (4), 173.245(a) (21), 173.263(a) (23), 173.272(i) (11), 173.277(a) (5) and 173.346(a) (24) to read as follows: Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 5-gallon capacity or two inside specification 2U polyethylene containers of not over 2-1/2 gallon capacity each. To amend the first sentence of §§ 173.119(m) (8) and 173.221(a) (9) to read as follows: Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 6-gallon capacity or two inside specification 2U polyethylene containers of not over 2-1/2 gallon capacity each. To amend the section title as follows: <u>§ 178.211 Specification 12P; fiberboard boxes. Non reusable containers for inside plastic containers greater than 1-gallon capacity as prescribed in Part 173 of this subchapter.</u>
E 7710 8045 8185 8266	Container Corp. of America; Liqui-Box Corp.; Midway Can Co.; Industrial Plastic Container Co.	§ 173.119(a) (27) 173.125(a) (7) 173.222(a) (4) 173.245(a) (21) 173.263(a) (23) 173.272(i) (11) 173.277(a) (5) 173.346(a) (24)	Authorizes shipments of various flammable liquids, corrosive liquids, and poisonous liquids in a DOT specification 12P fiberboard box having two inside DOT 2U polyethylene bottles of 2-1/2 gallon capacity each instead of one inside container as now prescribed.	
		§ 173.119(m) (8) 173.221(a) (9)		
		§ 178.211		

Proposed Amendments of Hazardous Materials Regulations
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Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 7725 7921 8116	Supelco, Inc., Varian Associates Poly Science Corp; Becton, Dickinson & Co; U.S. EPA	§ 173.4	Authorizes the shipment of minute quantities of various hazardous materials as essentially unregulated materials. The materials are used as analytical standards by research, industry and government agencies to test properties of other materials. The maximum quantity of hazardous material in one outside package is not greater than 250 milliliters (about 8-1/2 ounces) but the package is composed of many glass ampules containing very small quantities of material. There is presently no such provision for such minute quantities in the hazardous materials regulations.	<p>To add section § 173.4 to read:</p> <p style="text-align: center;"><u>§ 173.4 Exceptions for Analytical Standards and Minute Quantities of Certain Hazardous Materials.</u></p> <p>Hazardous materials (which are not forbidden from surface transportation by this subchapter) except radioactive materials, explosives and Poison A gases, when shipped in minute quantities as analytical standards and packaged and marked in accordance with all of the conditions of this paragraph and paragraph 173.24, are excepted from all other provisions of this subchapter.</p> <p>(a) Not more than 25 ml. (0.85 oz.) of hazardous material in a glass ampule with sufficient out-gage such that the ampule does not become liquid full at 130°F. Each ampule must be totally enclosed in an absorbent material of sufficient quantity to completely absorb its liquid content. In addition, each ampule containing a corrosive liquid must be surrounded by material capable of also neutralizing as well as absorbing the liquid. The ampules, appropriately cushioned and packed in a quantity not to exceed 10, must be either:</p> <p>(i) Enclosed in a heat sealed bag and placed in tightly fitting rigid inside packaging, or</p> <p>(ii) Placed in a tightly fitting rigid inside packaging which is enclosed in heat sealed bag.</p> <p>(b) Inside packages described in (i) or (ii) above must be placed and secured against movement in either a DOT Specification 12A or 12B (§ 178.205, 178.210 of this subchapter) fiberboard box of at least 275 pounds strength double-wall construction. Total net quantity of hazardous material in each fiberboard box must not exceed 250 mil.</p> <p>(c) The outside of the completed package shall be marked "ANALYTICAL STANDARDS".</p> <p>(d) Not authorized for transportation in the passenger compartment of an aircraft.</p>

Proposed Amendments of Hazardous Materials Regulations
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Identifica- tion No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 7824 7944 8044 8118	FMC Corp; Champion Chemicals, Inc. Dow Chemical Co. Nalco Chemicals Co. Magna Corp.	\$ 173.119(a)	Authorize the use of marine portable tanks (MPT) meeting the requirements of 46 CFR Part 64 for shipments by highway and cargo vessel for use in off-shore oil well supply industry. (Modes 1, 2).	To add paragraph (a) (29) to \$ 173.119 to read as follows: (29) Marine portable tanks meeting the requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of \$ 178.245-4 of this subchapter when transported by highway.
		\$ 173.245(a)		To add paragraph (a) (35) to \$ 173.245 to read as follows: (35) Marine portable tanks meeting the requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tank must be compatible with lading. Not authorized for corrosive materials which also meet the definition of another hazard class. Tanks shall comply with mounting and tie-down requirements of \$ 178.245-4 of this subchapter when transported by highway.
		\$ 173.263(a)		To add paragraph (a) (30) to \$ 173.263 to read as follows: (30) Marine portable tanks meeting the requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of \$ 178.245-4 of this subchapter. Authorized only for mixtures of hydrochloric and hydrofluoric acid containing 2% or less of hydrofluoric acid.
		\$ 173.264(a)		To add paragraph (a) (20) to read as follows: (20) Marine portable tanks meeting requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of \$ 178.245-4 of this subchapter when transported by highway. Authorized for hydrofluoric acid mixtures.

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Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
		§ 173.272(c), (d), (e), (f), (g)		To amend paragraphs (c), (d), (e), (f), and (g) by adding reference to paragraph (i)(29) as authorized packaging.
		§ 173.272(i)		To add paragraph (i)(29) to read as follows: (29) Marine portable tanks meeting requirements of 46 CFR Part 64 authorized for highway and cargo vessel only when shipped in support of off-shore oil well drilling activities. Tanks shall comply with mounting and tie-down requirements of § 178.235-4 of this subchapter when transported by highway. Authorized for sulfuric acid of concentrations up to 65.25 percent. Greater concentrations are also authorized if the corrosive effect on steel is not greater than that of 65.25 percent sulfuric acid measured at 100°F.
8071-N	Ethyl Corp.	§ 172.101	Correction: Docket HM-139 (44 FR 21793), April 12, 1979) amended §§ 172.101 and 173.202 to provide for the shipment of sodium potassium alloy (liquid) in DOT specification 51 portable tanks. An error was made in Column 6(b) of § 172.101 by authorizing 25 pounds aboard cargo-only aircraft. This entry should have been one pound.	To amend the entry for sodium potassium alloy (liquid) in § 172.101 by changing "25 pounds" in Column 6(b) to "1 pound."
E 8205-N	Roy E. Hanson Jr. MFG	§ 178.343-3(a)	Requested the use of a DOT Specification MC 312 cargo tank equipped with an elliptical manway as an alternate to the 15-inch inside diameter type. (Mode 1).	To amend the first sentence of § 178.343-3(a) to read: (a) Each compartment shall be accessible through a manhole conforming to paragraph UC-46(g)(1) of the ASME Code. * * *
8227-N	Interox America	§ 178.24a-2	Request to use an inside polyethylene bottle comparable with DOT Specification 2E except for a maximum capacity of 5 liters (Modes 1, 2, 3).	To revise paragraph (a) by deleting the reference to 4.73 liters to read as follows: (a) Maximum capacity not to exceed 5 quarts.
E 8229	Atlas Powder Co.	§ 172.504 173.114a	To allow the blasting agent placard for mixed loads of nitro carbo nitrate, classed as an oxidizer and blasting agent, n.o.s. and/or ammonium nitrate-fuel oil mixture. (See Docket HM-143, 44FR 31160, May 31, 1979). (Modes 1,2).	To add a new subparagraph to § 173.114a(j) as follows: (j)(1) During the voluntary compliance period, for mixed loads of nitro carbo nitrate, classed as oxidizer and blasting agent, n.o.s. and/or ammonium nitrate-fuel oil mixture, classed as a blasting agent, the blasting agent placard may be used in cases where both the blasting agent placard and the oxidizer placard would be required.

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Identification No.	Applicant holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
b268-N	Union Carbide Corp.	\$ 173.119(m)	Requests that DOT Specification 105A tank cars be authorized for the shipment of flammable liquids which are also corrosive. (Mode 2).	To consolidate paragraphs (m) (13) and (m) (15) into one paragraph to read as follows: (m) (13) Specification 103AW, 103ALW, 103A-ALW, 103ANW, 103BW, 103CW, 103DW, 103EW, 103W, 104W, 111A60ALW, 111A60W1, 111A60ALW2, 111A60W2, 111A60W5, 105A100W, 111A100F2, 111A100W3, 111A100W6, 115A60W6, or AAR206W (§§ 179.200, 179.201, 179.220 of this subchapter). Tank cars. All special requirements for tank cars according to flash point, vapor pressure and viscosity, in paragraphs (a) through (1) of this section apply (See Note 1). Not authorized for flammable liquids which are also organic peroxides.
E 8276-N	Safeway Stores	\$ 172.101 173.505	Would authorize the transport of ORM-D packages in less than case lots when secured in carts or overpacks. Applicable only when shipped between distribution center and retail store via private motor carrier. (Mode 1).	To change the entry for consumer commodity in § 172.101 Column 5(a) from "None" to "173.505(b)." To add a new paragraph in § 173.505 to read as follows: (b) Strong outside packagings as specified in § 173.1200 of this subchapter are not required for materials classed as ORM-D when unitized in cages, carts, or similar overpacks and when shipped by private motor carrier from a distribution center to retail outlet.

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Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 8311-N	Pressed Steel Tank Co., Inc.	§ 178.37-5	Request the re-instatement of DOT SP 6129 which authorized the use of a carbon-boron steel in the manufacture of DOT Specification 3AA cylinders. (Modes 1,2,3 4).	To revise the Table in § 178.37-5 (a) by eliminating the un-used designations NE-8630, NE-9115, NE-9115X, NE-9125, NE-9125X and by adding a new designation after "4130X" to read as follows:

§ 178.37-5(a) * * *

Designation	Carbon-boron steel (percent)
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Carbon	0.27-0.37
Manganese	0.80-1.40
Phosphorus	0.035 max
Sulphur	0.045 max
Silicon	0.30 max
Chromium	
Molybdenum	
Zirconium	
Nickel	
Boron	0.0005-0.003

Also, a new paragraph (b) would be added to § 178.37-5 to read as follows:

(b) When a carbon-boron steel is used, a hardenability test must be performed on the first and last ingot of each heat of steel. The results of this test must be recorded on the Record of Chemical Analysis of Material for Cylinders required by § 178.37-22 of this section. This hardness test must be made 5/16-inch from the quenched end of the Jominy quench bar and the hardness shall be at least Rc 33 and no more than Rc 53.

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